

1 MICHAEL J. HADDAD (SBN 189114)
2 JULIA SHERWIN (SBN 189268)
3 BRIAN HAWKINSON (SBN 341856)
4 HADDAD & SHERWIN LLP
5 505 Seventeenth Street
6 Oakland, CA 94612
7 Telephone: (510) 452-5500
8 Facsimile: (510) 452-5510

9 Attorneys for Plaintiffs

10 **UNITED STATES DISTRICT COURT**
11 **EASTERN DISTRICT OF CALIFORNIA**

12 ANTHONY GALLEY, Deceased, by and through
13 his Co-Successors in Interest, P.P. and B.P.,
14 minors, through their mother and Next Friend,
15 Christina O’Neal, Individually and as Co-
16 Successors in Interest for ANTHONY GALLEY,
17 Deceased,

18 Plaintiffs,

19 vs.

20 COUNTY OF SACRAMENTO, a public entity;
21 FORMER SACRAMENTO COUNTY SHERIFF
22 SCOTT R. JONES, in his individual capacity; Jail
23 Commander ANTHONY PAONESSA, Jail
24 Medical Director VEER BABU, M.D., MAXIM
25 HEALTHCARE SERVICES, INC. dba MAXIM
26 STAFFING SOLUTIONS, a Maryland
27 Corporation; MAXIM HEALTHCARE
28 STAFFING SERVICES, INC., a Maryland
Corporation; ERICA WOODS, R.N., and DOES
1–20; individually, jointly, and severally,

Defendants.

Case No. 2:23-cv-00325-WBS-AC

**STIPULATION AND (~~PROPOSED~~)
ORDER RE: “FIRST LOOK”
AGREEMENT RE: DEFENDANTS’
FEDERAL RULE OF CIVIL
PROCEDURE 45 SUBPOENAS
SEEKING DECEDENT ANTHONY
GALLEY’S MEDICAL RECORDS
FROM MERCY SAN JUAN
MEDICAL CENTER”**

1 The parties, by and through their respective attorneys of record, hereby stipulate to the
2 following order being issued in this matter:

3 1. On July 19, 2024, Plaintiffs' counsel received Federal Rule of Civil Procedure 45
4 subpoenas for the Production of Documents for medical records which counsel for Defendants
5 served by Advanced Microsystems Litigation Support Services on the following entities:

- 6 a. Mercy San Juan Medical Center – Medical Records Department, seeking “Any
7 and all documents that may be handwritten, digitally and/or electronically stored
8 pertaining to the care, treatment and examination of the below named patient,
9 including but not limited to medical reports, physician's reports/notes, history and
10 physical reports, discharge summaries, emergency room records, inpatient and
11 outpatient records, radiological and diagnostic imaging tests/studies reports, all
12 physical therapy, occupational therapy and speech therapy records, case manager
13 records, laboratory results, pathology reports, medication administration records,
14 prescription refill requests, pharmacy records, insurance records, color
15 photographs received or taken by you. color photocopies are required. black and
16 white copies are not acceptable. all communications, including e-mail
17 communications between medical staff, patient, and patient's family, including
18 ‘secure messages’” from 4/1/2018 to the present.
- 19 b. Mercy San Juan Medical Center – Patient Accounts Department, seeking “Any
20 and all billing records, including but not limited to billing statements complete
21 with CPT/ diagnostic codes, any type of payment records, previous or current
22 balances, or itemized statements; documentation that reflects the amounts(s)
23 actually accepted as payment in full of the charges billed; any type of
24 documentation that reflects any kind of reduction, insurance adjustment, and/or
25 write-off of all or any portion of the amount charged or normally charged;
26 including those existing in electronic or magnetic form, in the possession,
27 custody or control of the said witness, and every such billing record to which the
28 witness may have access” from 4/1/2018 to the present.”
- c. Mercy San Juan Medical Center – Radiology Department, seeking “Diagnostic
imaging inventory: please provide a detailed inventory or breakdown of all
images available from first date of treatment to the present including, but not
limited to, any and all x-ray films, cat scans, MRI's, discograms, myelograms
and EMGs. specific images required will be selected from the
breakdown/inventory you provide. Please provide a cost per image or per study
in CD/DVD format” from 4/1/2018 to present. “Do not send films at this time.”

The subpoenas have a production date and time of August 19, 2024, at 9:00 a.m.

1 2. Plaintiffs' counsel contends that the subpoenaed documents will likely contain
2 privileged information to which Defendants are not entitled, and that the subpoenas as drafted are
3 overbroad insofar as they seek discovery of all Anthony Galley's medical records and so seek
4 information protected by Mr. Galley's physician-patient privilege and privacy rights, and which are
5 neither proportional to the needs of this case nor relevant to the claims and defenses in this matter.

6 3. Plaintiffs' counsel and Defendants' counsel met and conferred by email on July 23,
7 2024 and August 1, 2024. The parties agree to the following "First-Look" Procedure:
8

- 9 a. Counsel for Defendants shall instruct Advanced Microsystems Litigation Support
10 Services as follows: (i) to obtain any subpoenaed documents by a date set by
11 Defendants; (ii) to produce the documents directly to Plaintiffs' counsel's
12 business address: Haddad & Sherwin LLP, 505 17th Street, Oakland, CA 94612,
13 and to NOT produce the documents to counsel for Defendants at this time.
- 14 b. Upon receipt of the subpoenaed documents from Advanced Microsystems
15 Litigation Support Services, Plaintiffs' counsel will then have seven (7) business
16 days to review the documents to see if they contain any privileged information.
17 If the documents do contain such information, Plaintiffs' counsel shall redact
18 and/or withhold the pages containing that information and Plaintiffs' counsel
19 shall create a privilege log complying with Federal Rules of Civil Procedure
20 45(e)(2)(A)(i)–(ii) and 26(b)(5)(A)(i)–(ii).
- 21 c. On or before the seventh (7th) business day after receiving the records from
22 Advanced Microsystems Litigation Support Services, Plaintiffs' counsel shall
23 serve the subpoenaed documents by Federal Express Priority Overnight or
24 electronically on Defendants' counsel; if Plaintiffs' counsel has redacted and/or
25 withheld any information, they shall also concurrently serve the privilege log
26 described in ¶ 3(b), above.

1 4. Counsel for Defendants shall pay Advanced Microsystems Litigation Support
2 Services to obtain the documents and produce them to Plaintiffs' counsel, and Plaintiffs' counsel
3 shall pay to send them by Federal Express Priority Overnight to counsel for Defendants, if physical
4 documents were produced.

5 5. Counsel for Defendants reserves the right to seek production of any documents that
6 are withheld and/or redacted by Plaintiffs' counsel pursuant to the terms of this agreement. Should
7 any such discovery dispute not be resolved through the meet and confer process, defendants reserve
8 their right to file discovery motions with the court seeking an Order requiring production of
9 withheld documents.
10

11
12
13 Dated: August 6, 2024

HADDAD & SHERWIN LLP

14
15 /s/ Michael J. Haddad

16 MICHAEL J. HADDAD
17 Attorneys for Plaintiffs

18 Dated: August 6, 2024

BEACH LAW GROUP, LLP


19
20 /s/ Rachel K. Mandelberg

21 THOMAS E. BEACH
22 SUEANNE D. CHADBOURNE
23 RACHEL K. MANDELBERG
24 MOLLY LOY
25 Attorneys for Defendants
26 MAXIM HEALTHCARE SERVICES, INC., MAXIM
27 HEALTHCARE STAFFING SERVICES, INC., and
28 ERICA WOODS, R.N.

(PROPOSED) ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: August 23, 2024


ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE